

UNITED STATES DISTRICT COURT
for the

Western District of North Carolina

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of the defendant the Director of the Bureau of Prisons the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

IT IS ORDERED that the motion is:

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: 37 Amended Offense Level: 37

Criminal History Category: III Criminal History Category: III

Previous Guideline Range: 262 to 327 months Amended Guideline Range: 262 to 327 months

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- The reduced sentence is within the amended guideline range.
- The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- Other (explain):

III. ADDITIONAL COMMENTS

Had Amendment 706 (Retroactive Crack Cocaine Amendment) been in place at the original sentencing, the same guideline calculations would have applied. Accordingly, Defendant is not eligible for a reduction in sentence pursuant to Amendment 706. U.S.S.G. § 1B1.10(a)(2)(B).

Except as provided above, all provisions of the judgment dated 2/24/03 shall remain in effect.

IT IS SO ORDERED.

Order Date: September 17, 2008

Effective Date: _____
(if different from order date)

Frank D. Whitney